

Plaintiff's Name DARRELL COURTNEY  
Inmate No. J-94495  
Address PO BOX 290066  
REPRESENTATIVE, CALIFORNIA 95671

1 ST  
AMENDED  
COMPLAINT  
RECEIVED  
MAY - 1 2008  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE ~~NORTHERN~~ DISTRICT OF CALIFORNIA

DARRELL COURTNEY  
(Name of Plaintiff)

CV-08-1791  
(Case Number)

vs.

COMPLAINT AMENDED

Civil Rights Act, 42 U.S.C. § 1983

R. MOUSER Correctional-  
AL OFFICER.  
J. JOHNSON, Correctional  
OFFICER  
(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes \_\_\_ No ☒

B. If your answer to A is yes, how many? NONE  
Describe previous or pending lawsuits in the space below.  
(If more than one, use back of paper to continue outlining all lawsuits.)

1. Parties to this previous lawsuit:

Plaintiff N/A

Defendants N/A

2. Court (if Federal Court, give name of District; if State Court, give name of County)

3. Docket Number N/A 4. Assigned Judge N/A

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Filing date (approx.) N/A 7. Disposition date (approx.) N/A

## III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

- A. Defendant R. MOUSER & J. JOHNSON is employed as CORRECTIONAL OFFICERS  
 at PELICAN BAY STATE PRISON
- B. Additional defendants (WRITTEN UP-TO, BOTH DEFENDANTS)

## IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

ON 8-15-07 AT APPROXIMATELY 6:30 AM  
CORRECTIONAL OFFICER MOUSER AND CORRECTIONAL OFFICER J. JOHNSON  
WAS CONDUCTING THEIR DUTIES, FEEDING THE UPPER TIER, WHEN  
C/O R. MOUSER REACHED MY CELL DOOR (HE ASKED HIM, WHAT WE'RE  
WE HAVING?) OFFICER MOUSER SUDDENLY BECAME ENRAGED AND PRO-  
CEEDED TO THROW MY BREAKFAST MILK THREW THE TRAY-PART  
OFFICER R. MOUSER THEN BEGAN TO REACH THREW MY TRAY-PART  
GRABBING ME BY MY SHIRT OFFICER J. JOHNSON THEN PROCEEDED  
TO ASSIST HIM IN HIS ASSAULT AGAINST ME, CAUSING ME TOO  
BE STRUCK ON MY STOMACH LEAVING A LONG SCAR ACROSS MY  
STOMACH, CAUSING ME TO HAVE TO BE SEEN BY NURSING STAFF (see 7219)

## V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

FOR USE OF EXCESSIVE FORCE I, D. COURTNEY ASK FOR  
MONEY, PUNITIVE AND DECLARATORY DAMAGES IN THE  
SUM OF \$200,000.00 IN MONETARY DAMAGES AND \$5,000.00  
IN PUNITIVE DAMAGES, AND \$5,000.00 IN DECLARATORY DAMAGES  
ALSO A DEMAND FOR A TRIAL BY A JURY.

I declare under penalty of perjury that the foregoing is true and correct.

Date

4-24-08

Signature of Plaintiff

[Signature]

(revised 9/17/03)

## II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes ☒ No ☐

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes ☒ No ☐

If your answer is no, explain why not. FULL EXHAUSTION OF ADMINISTRATIVE REMEDIES ARE STILL IN PROGRESS. PER. BOOTH V. CHURNER 532 U.S. 731, 741 (2001) AND SEE ALSO MCKINNEY V. CAREY 311 F.3d 1198, 1999 (9th Cir. 2002)

C. Is the process completed?

Yes ☐

If your answer is yes, briefly explain what happened at each level.

PROCESS IN FULL IS INCOMPLETE, SECOND LEVEL RESPONSE PENDING

No ☐

If your answer is no, explain why not.

N/A

### NOTICE:

Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734.

DARRELL COURTNEY

CSP-SAC

PO BOX 290066

REDDING, CA 95671

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UNITED STATES DISTRICT COURT  
OF NORTHERN CALIFORNIA

DARRELL COURTNEY

PLAINTIFF,

CASE NO. CV-08-1791

VS.

CORRECTIONAL OFFICERS

R. MOUSER / J. JOHNSON

DEFENDANTS.

DEMAND FOR JURY TRIAL

BY

PLAINTIFF.

I (COURTNEY) NOW A PLAINTIFF IN THE ABOVE AND  
ENTITLED TO THIS COURT, MY COMPLAINT IS CORRECTIONAL  
OFFICERS R. MOUSER AND J. JOHNSON OF PELICAN BAY  
STATE PRISON, FOR USE OF EXCESSIVE FORCE.

I HAVE FILED TWO INMATE / PAROLEE APPEALS, AND TO  
NO AVAIL, PELICAN BAY APPEALS COORDINATOR REFUSES TO  
RESPOND TO MY COMPLAINT AGAINST ITS STAFF  
MEMBERS.

AND ACCORDING TO BOOTH V. CHURNER, 532 U.S. 731, 739 12 S. CT. 1819, 149 L. ED. 2D 928 (2001) BUT WHAT CAN BE DONE IF THE PETITIONER/PLAINTIFF IS NOT ALLOWED TO FULLY EXHAUST HIS ADMINISTRATIVE REMEDIES? AND YES, ITS WELL KNOWN THAT PROPER EXHAUSTION DEMANDS COMPLIANCE WITH CDCR AND OTHER CRITICAL PROCEDURAL RULES BECAUSE NO ADJUDICATIVE SYSTEM CAN FUNCTION EFFECTIVELY WITHOUT IMPOSING SOME ORDERLY STRUCTURE OF, OR ON, THE COURSE OF ITS PROCEEDINGS. BUT WHAT CAN ONE DO WHEN THE RESPONDANTS CHOOSE NOT! TO RESPOND? AND WHILE THE ADMINISTRATIVE PROCESS GIVES THE PRISON (PBSP) THE OPPORTUNITY TO CORRECT THEIR OWN ERRORS, THEY, (PBSP) FAIL TO ADVISE THE PLAINTIFFS COMPLAINTS, THE PLAINTIFF FEELS THAT THE RESPONDANTS ARE FLAGRANTLY ABUSING THIS OR THEIR APPEALS PROCESS, INADING THE COMPLAINTEE TO EXHAUST HIS ADMINISTRATIVE REMEDIES, WHICH BRINGS DISCRIMINATION INTO THIS PICTURE. THE PLAINTIFF BELIEVES THAT THE RESPONDANTS ARE PURPOSELY TRYING TO CIRCUMVENTING MY APPEALS BECAUSE I'VE NOW BEEN TRANSFERRED TO CSP-SAC FROM PELICAN BAY STATE PRISON; IN CLOSING, IT IS THE WISH OF THE PLAINTIFF TO HAVE MATTER PRESENTED TO A JURY OF HIS PEERS.

I HEREBY SWEAR UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AS I KNOW THEM TO BE.

Signed: Danell Courtney

DATE: 4-21-08  
4-21-08